

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of

Promoting Diversification of Ownership in the) MB Docket No. 07-294
Broadcasting Services)

Amendment to Part 1 of the Commission's) MD Docket No. 16-294 **Accepted / Filed**

Rules, Concerning Practice and Procedure,)
Amendment of CORES Registration System)

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Federal Communications Commission
Office of the Secretary

APPLICATION FOR REVIEW OF THE UNIVERSITY OF MICHIGAN

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In the Matter of

Promoting Diversification of Ownership in the Broadcasting Services)	MB Docket No. 07-294
)	
)	
Amendment to Part 1 of the Commission's Rules, Concerning Practice and Procedure,)	MD Docket No. 10-234
Amendment of CORES Registration System)	

APPLICATION FOR REVIEW OF THE UNIVERSITY OF MICHIGAN

Pursuant to Section 155 of the Communications Act of 1934 ("Act") and Section 1.115(a) of the Commission's rules,¹ the University of Michigan ("U of M") files this application for review of the Media Bureau's *Order on Reconsideration*.² The petitions for reconsideration raised important issues that affect noncommercial educational ("NCE") licensees nationwide, and warrant the Commission's review of the Bureau's order. In the *Order on Reconsideration*, the Bureau denied reconsideration petitions filed by seventy-seven NCE licensees,³ for the

¹ See 47 U.S.C. § 155(c)(4); 47 C.F.R. § 1.115(a).

² See *Promoting Diversification of Ownership in the Broadcasting Services, Amendment of Part 1 of the Commission's Rules, Concerning Practice and Procedure, Amendment of CORES Registration System*, Order on Reconsideration, DA 17-5, MB Docket No. 07-294, MD Docket No. 10-234 (Media Bur. rel. Jan. 4, 2017) ("*Order on Reconsideration*").

³ See Petition for Reconsideration of American Public Media Group, MB Docket Nos. 07-294, 10-103, & 10-234, (filed May 4, 2016); Petition for Reconsideration of NCE Licensees, MB Docket Nos. 07-294, 10-103, & 10-234, (filed May 3, 2016) ("NCE Licensees Petition"); Petition for Reconsideration of the Board of Trustees of Florida Gulf Coast University *et al.*, MM Docket Nos. 07-294, 10-103, & 10-234, (filed May 4, 2016) ("Public Broadcasting Parties Petition"); Petition for Reconsideration of Lisa S. Campo, MB Docket Nos. 07-294, 10-103, & 10-234, (filed May 3, 2016) (on behalf of the State University of New York) ("SUNY Petition"). The petitioners collectively represent licensees from thirty-five states.

Commission to reconsider one part of its January 2016 *323 and 323-E Order*.⁴ Specifically, in the *323 and 323-E Order*, the Commission, over the objections and reservations of Commissioners Pai and O’Rielly,⁵ required NCEs to provide sensitive personally identifiable information (“PII”) of their governing board members to the Commission.⁶

The petitions emphasized that requiring the submission of information including residential addresses and partial Social Security numbers places a heavy burden on NCE licensees and their board members, many of whom are government officials serving in an *ex officio* capacity, who would be exposed to an increased risk of identity theft, hacking, and other potential dangers.⁷ Moreover, having this information does not further the Commission’s stated policy goal of increased diversity in media by promoting the ownership of broadcasters by women and minority-owned businesses.⁸ As explained below, the Commission can and should reduce the burden on NCE licensees and their governing board members without harming the Commission’s ability to achieve its policy goals by granting the reconsideration motion and removing the requirement for NCE licensees to provide PII about their governing board

⁴ See *Order on Reconsideration* ¶ 1; see also *Promoting Diversification of Ownership in the Broadcasting Services, Review of Media Bureau Data Practices*, Report and Order, Second Report and Order, and Order on Reconsideration, 31 FCC Rcd. 398 (2016) (“*323 and 323-E Order*”).

⁵ See *323 and 323-E Order*, 31 FCC Rcd. at 516 (Statement of Commissioner Ajit Pai Approving in Part and Dissenting in Part (“Pai Dissenting Statement”)); *323 and 323-E Order*, 31 FCC Rcd. at 518 (Statement of Commissioner Michael O’Rielly Approving in Part and Concurring in Part) .

⁶ See *323 and 323-E Order* ¶ 3.

⁷ See, e.g., NCE Licensees Petition at 5-6.

⁸ See *323 and 323-E Order* ¶ 3.

members. Accordingly, U of M respectfully requests that the Commission vacate the *Order on Reconsideration* and grant the petitions for reconsideration.⁹

I. BACKGROUND

A. The Commission's 323 and 323-E Order.

The *323 and 323-E Order* directed the Bureau to undertake an unprecedented collection of sensitive PII from NCE board members, including state government officials nationwide who generally have no personal involvement in the television or radio broadcast industry. Under that order, all broadcast licensees must report to the Commission both (i) demographic information—race, gender, and ethnicity—for their officers and governing board members, and (ii) a unique Restricted Use FCC Registration Number (“RUFRN”) for each individual officer and governing board member.¹⁰ In order to obtain an RUFRN, an individual must in turn provide sensitive PII to the Commission, including date of birth, residential address, and the last four digits of the individual's Social Security number.¹¹

The requirement to obtain an RUFRN applies to both commercial and NCE licensees and their respective officers and governing board members. Unlike commercial broadcasters, many NCE licensees are entities created by state law, whose governing board members are elected or appointed government officials.¹² Moreover, in many cases the broadcast licenses are held by

⁹ U of M was among the NCE Licensees who petitioned the Commission for reconsideration, and “previously participated in the proceeding” leading up to the adoption of the *323 and 323-E Order*, and thus files this application for review pursuant to the Commission's rules. See 47 C.F.R. § 1.115(a); see also *323 and 323-E Order* ¶ 46 n.166 (citing U of M 12/7/15 Ex Parte). Moreover, U of M is a “person aggrieved by” the Bureau's “action taken pursuant to delegated authority” to deny the reconsideration petitions because U of M is a holder of four NCE licenses—WUOM, WFUM, WVGR, and WCBN-FM. See 47 C.F.R. § 1.115(a).

¹⁰ See *323 and 323-E Order* ¶ 3.

¹¹ See *id.* ¶ 31.

¹² For example, Penn State's Board of Trustees include the Governor of Pennsylvania and three state secretaries: <http://www.psu.edu/trustees/membership.html>. The University of

their respective governing bodies.¹³ In the case of U of M, its FCC licenses are held in the name of its Board of Regents, a group of statewide elected officials.¹⁴

Prior to the adoption of the *323 and 323-E Order*, state university licensees urged the Commission not to take an indiscriminate approach to both commercial broadcasters and NCE licensees.¹⁵ Parties observed that data about state government officials who serve as governing board members of an NCE licensee by virtue of their office would be of little value to the Commission because they do not provide any insight about the state of diversity in the broadcast media market.¹⁶ Parties also stressed that it is not necessary for the Commission to obtain personally identifiable information, such as the last four digits of Social Security numbers, in order to study the racial and gender makeup of NCE licensees.¹⁷ Finally, U of M and others

California's Board of Regents includes the Governor and Lieutenant Governor of California, as well as the Speaker of the California Assembly:
<http://regents.universityofcalifornia.edu/about/members-and-advisors/index.html#ex-officio>.
The Board of Trustees that governs the State University of New York consists of members appointed by the Governor of New York and confirmed by the state senate. *See* SUNY Petition at 2-3.

¹³ *See, e.g.*, SUNY Petition at 1 n.1.

¹⁴ *See* MICH. COMP. LAWS ANN. § 168.282; *see also* U of M 12/7/15 Ex Parte at 1.

¹⁵ *See, e.g.*, Joint Reply Comments of the University of Utah *et al.* at 3, MB Docket No. 07-294, MD Docket No. 10-234 (filed Apr. 13, 2015) ("University of Utah Reply Comments").

¹⁶ *See* Letter from Scott Blake Harris, Counsel to the University of Michigan, to Marlene H. Dortch, Secretary, FCC, at 1, MB Docket Nos. 10-103 & 07-294, MD Docket No. 10-234 (filed Nov. 5, 2015) ("U of M 11/5/15 Ex Parte").

¹⁷ *See* U of M 11/5/15 Ex Parte at 2; Reply Comments of the Alabama Educational Television Commission *et al.* at 4-5, MB Docket No. 07-294 (filed Mar. 1, 2013) (explaining that even without PII, the Commission could determine the percentage of minority or female ownership and the percentage of licensees with such ownership).

highlighted the needless risk of identity theft, hacking, and other attacks to which the Commission would expose state government officials.¹⁸

The *323 and 323-E Order* blithely dismissed these concerns. The order stated that “[t]he absence of [demographic] information with respect to NCE stations restricts the Commission’s ability to comprehensively consider broadcasting’s impact in local markets”¹⁹ because NCE governing board members could potentially “influence [the licensee’s] station programming or operations.”²⁰ The *323 and 323-E Order* likewise concluded that collecting sensitive personally identifiable information is necessary because “a unique identifier for each individual attributable interest holder is necessary to make the NCE data aggregable, machine readable, and searchable in the same manner as commercial broadcast station information.”²¹ With respect to security concerns, the *323 and 323-E Order* stated that “[t]he Commission’s systems and security architecture continue to contain robust strict operational controls that comply with National Institute of Standards and Technology guidance,”²² and that NCEs have offered “no compelling reason why. . . the system security needs or risks of NCE attributable interest holders are greater than those of commercial attributable interest holders.”²³

¹⁸ See, e.g., U of M 12/7/15 Ex Parte at 1; University of Utah Reply Comments at 6-8; Reply Comments of the Alabama Educational Television Commission *et al.* at 5-6, MB Docket No. 07-294, MD Docket No. 10-234 (filed Mar. 30, 2015).

¹⁹ *323 and 323-E Order* ¶ 51.

²⁰ *Id.* ¶ 49.

²¹ *Id.* ¶ 54.

²² *Id.* ¶ 41.

²³ *Id.* ¶ 42.

B. Petitions for Reconsideration and the *Order on Reconsideration*.

Following the Commission's adoption of the *323 and 323-E Order*, numerous NCE licensees petitioned for reconsideration, asserting material errors in the Commission's reasoning and conclusions supporting the RUFRN requirement for NCE licensees.²⁴ In brief, the petitions argued that it was arbitrary for the Commission to ignore the critical differences between commercial licensees and NCE licensees for the purposes of collecting information about governing board members.²⁵ The State University of New York ("SUNY") emphasized in its petition the unique burdens that the Commission's new requirements place on state universities.²⁶ SUNY noted that, but for the Commission's order, it "has no reason to request or demand that a Trustee provide the University with her or his Social Security Number," and that if a Trustee were to refuse to provide such information to the Commission, SUNY would be faced with a trilemma of awful options: (1) attempt to force the Trustee to resign and lose a duly appointed and confirmed leader of the entire university system; (2) pay fines to the Commission; or (3) give up its licenses.²⁷ SUNY also argued that the *323 and 323-E Order* does not reflect adequate consideration of the security risks, noting that SUNY "[has] no assurances that the Commission will provide a higher level of security for the personal and confidential data it will collect here than the Office of Personnel Management did for this highly secure (but breached) data."²⁸ As an alternative to the RUFRN requirement, SUNY proposed that NCE licensees could

²⁴ See *supra* note 3.

²⁵ See, e.g., NCE Licensees Petition at 1.

²⁶ See SUNY Petition at 4-6.

²⁷ See *id.* at 5-6.

²⁸ *Id.* at 5.

instead certify as to the accuracy of the demographic information reported to the Commission.²⁹

By rejecting this alternative, SUNY argued, the Commission also failed to justify why the additional sensitive PII is required for “accurate and verifiable noncommercial education ‘ownership’ data.”³⁰

Likewise, a group of governmental and private nonprofit licensees (the “Public Broadcasting Parties”) argued in its reconsideration petition that the Commission failed to properly consider the burden on licensees of obtaining the personally sensitive information from their governing board members.³¹ Specifically, the Public Broadcasting Parties argued that the Commission erred in basing its conclusion in part on the collection of demographic information from some NCE licensees by the Corporation for Public Broadcasting (“CPB”), because CPB does not also require the submission of sensitive personally identifiable information.³² The Public Broadcasting Parties also argued that the Commission did not adequately support its conclusion that requiring the submission of sensitive PII would not have a deterrent effect on potential NCE board members, noting that “even a modest dampening of enthusiasm for public service on NCE licensee boards should be avoided as a matter of policy.”³³ Finally, the Public Broadcasting Parties argued that the Commission erred by failing to consider that NCE licensees, which are not subject to the Commission’s various ownership restrictions,

²⁹ *See id.* at 6; *see also* NCE Licensees Petition at 9 (supporting U of M’s proposal to remove the RUFRN requirement for NCE licensees but retaining the reporting of demographic information).

³⁰ SUNY Petition at 6.

³¹ *See* Public Broadcasting Parties Petition at 5-6.

³² *See id.*; *see also* 323 and 323-E Order ¶ 51 n.188 (acknowledging that “CPB data does not contain the same level of detail necessary to provide the snapshot of ownership data”).

³³ Public Broadcasting Parties Petition at 6.

are “not susceptible to influence by” the Commission’s “market-based incentives to promote minority and female ownership of commercial broadcast station[s],” and therefore should not be treated in the same manner as commercial licensees for ownership reporting purposes.³⁴

In response to these petitions, the Bureau concluded in the *Order on Reconsideration* that all of these arguments had been fully considered by the Commission in adopting the *323 and 323-E Order*, and that the petitions did not identify any material error, omission, or reason warranting reconsideration of those issues.³⁵ Accordingly, the Bureau exercised its delegated authority under section 1.429(l) of the Commission’s rules to deny the petitions.³⁶

II. THE COMMISSION SHOULD GRANT THE APPLICATION TO REVIEW THE *ORDER ON RECONSIDERATION* AND THE RECONSIDERATION PETITIONS.

Pursuant to the Commission’s rules, the Bureau’s *Order on Reconsideration* warrants review because it involved a policy that should be “overturned or revised.”³⁷ Specifically, the Commission should vacate the *Order on Reconsideration*, and simultaneously grant the reconsideration petitions. It should, at a minimum, exempt NCE licensees that are governmental entities from the requirement adopted in the *323 and 323-E Order* that the licensee’s governing board members must provide their date of birth, residential address, and any part or all of the member’s Social Security number, in order to obtain an RUFRN to be submitted to the

³⁴ *Id.* at 7; *see also id.* (noting that NCE licensees “have been swept into this proceeding without detailed consideration of the differences in how commercial and public broadcasting stations are governed”); U of M 12/7/15 Ex Parte at 1 (explaining that the selection process for the governing bodies of public universities is unrelated to the commercial radio market); Comments of Public Radio Regional Organizations at 7, MB Docket No. 07-294, MD Docket No. 10-234 (filed March 30, 2015) (arguing that any Commission policy measure to promote diversity using “market-based incentives to lower the economic or regulatory cost of ownership” would be “irrelevant to NCE stations”).

³⁵ *See Order on Reconsideration* ¶ 7.

³⁶ *See id.*

³⁷ 47 C.F.R. § 1.115(b)(2)(iii).

Commission. This relief is warranted because the *323 and 323-E Order* contained material errors and gaps in its reasoning and factual conclusions—grounds for the Commission to grant the reconsideration petitions.³⁸

At the outset, the petitions warrant the consideration of the Commission, and should not have been decided by the Bureau on delegated authority. When the Commission amended its rules in 2011 to delegate authority to staff to deny reconsideration petitions that raise arguments that “have been fully considered,” it expressly reminded staff that the Commission “expect[s] that staff will refrain from exercising this authority to dismiss petitions for reconsideration in close cases.”³⁹ This is such a case. The petitions challenged specific portions of the *323 and 323-E Order* that petitioners assert were not supported by the facts and/or did not present a considered response to issues raised by participants in the rulemaking. Moreover, these same portions of the order were criticized by two commissioners in separate statements. In any event, whether or not the petitions should have been decided by the Bureau in the first instance, the Commission should now grant this application to review.⁴⁰

³⁸ See, e.g., *Amendment of Part 1 and 63 of the Commission’s Rules*, Order on Reconsideration, 25 FCC Rcd. 15,706, 15,708 ¶ 6 (2010); *Implementation of Section 25 of the Cable Television Consumer Protection and Competition Act of 1992*, Second Order on Reconsideration of First Report and Order, 19 FCC Rcd. 5647, 5650 ¶ 7 (2004).

³⁹ *Amendment to Certain of the Commission’s Part 1 Rules of Practice and Procedure and Part 0 Rules of Commission Organization*, Report and Order, 26 FCC Rcd. 1594, 1607 ¶ 30 (2011).

⁴⁰ See *id.* (“[T]o the extent that a party is aggrieved by a staff dismissal or denial of a petition for reconsideration under this provision, that party may file an application for review with the full Commission.”).

A. The Commission Wrongly and Arbitrarily Concluded that Collecting Sensitive PII from NCE Licensees Furthers Its Statutory Purpose.

In the *323 and 323-E Order*, the Commission concluded that collecting sensitive PII from the governing members of NCE licensees “will further [its] goal of designing policies to advance diversity.”⁴¹ As the Public Broadcasting Parties noted, the Commission’s rationale is based on conflating the ownership and governance of commercial licensees and that of NCE licensees.⁴² The Commission justified this treatment of NCE licensees on the grounds that the governing board members of NCE licensees, like the owners of commercial licensees, have “the ability to influence station programming” and are thus deemed to hold “attributable interests” in the licensee.⁴³ However, there is no basis either in the Commission’s rules, or in the selection of governing board members of public educational NCE licensees, for treating NCE licensees in the same manner as commercial licensees. The Commission’s decision to ignore these differences and apply the RUFRN requirement to both was wholly arbitrary, and should be revised.

First, the *323 and 323-E Order* ignored a critical distinction between the regulatory status of NCE licensees and commercial licensees. The Commission’s rules restricting cross-ownership of licensees and limiting market concentration do not apply to NCE licensees, and the Commission’s rules do not restrict or condition the ability of the same individual to serve as a governing board member of multiple NCE licensees.⁴⁴ In contrast, the Commission’s ownership

⁴¹ *323 and 323-E Order* ¶ 44.

⁴² See Public Broadcasting Parties Petition at 6.

⁴³ See *323 and 323-E Order* ¶¶ 48-49; see also 47 C.F.R. § 73.3555 note 2(g) (“Officers and directors of a broadcast licensee, cable television system or daily newspaper are considered to have a cognizable interest in the entity with which they are so associated.”); see also *id.* § 73.3555(f) (“[T]he attribution standards set forth in the Notes to this section will be used to determine attribution for noncommercial educational FM and TV applicants . . .”).

⁴⁴ 47 C.F.R. § 73.3555(f) (“The ownership limits of this section are not applicable to noncommercial educational FM and noncommercial educational TV stations.”).

rules for commercial licensees are, to say the least, complex. It is therefore understandable why the Commission wants to be able to determine with precision the individual owners of commercial licensees, what interests they hold, and whether two individuals identified in separate reports are in fact the same person. There is no analogous regulatory reason to demand a similarly high degree of precision (if any at all) in determining whether the same individual sits on the boards of multiple NCE licensees.

Not surprisingly, the *323 and 323-E Order*'s clearest articulation of the Commission's rationale for requiring PII is specifically in the context of commercial licensees. The order explains that without an RUFRN, the Commission "cannot reliably examine the complete attributable holdings of an individual . . . or search, aggregate, and cross reference the ownership data."⁴⁵ For commercial licensees, the requirement makes some sense because the Commission has to enforce its ownership restrictions, and connecting each individual to multiple pieces of personally identifiable information improves the Commission's ability to determine each specific individual's ownership interests. In contrast, the *323 and 323-E Order*'s only justification for requiring RUFRNs for NCE licensees is that a unique RUFRN "ensures that the data can be meaningfully searched, aggregated, and cross referenced electronically."⁴⁶ However, the order does not explain *why* the Commission would need to "reliably examine" all of the NCE boards on which any specific individual may serve, and why that need is sufficiently important to warrant the collection of the same sensitive PII as collected for commercial licensees.

⁴⁵ *323 and 323-E Order* ¶ 29; see also *id.* (noting the difficulties encountered by the Commission in conducting "[m]annual, subjective analysis of thousands of Form 323 entries [for commercial licensees] using various sources of information").

⁴⁶ *Id.* ¶ 33.

U of M respectfully submits that no explanation was provided because there is simply no need to collect such personally identifiable information for the purpose of promoting diversity, as opposed to enforcing individual ownership restrictions. To the contrary, only demographic data about race, gender, and ethnicity, to the extent they offer any value, would be useful precisely because such data enable analysis at a level of generality *above the individual level*. These data can be readily provided, “searched, aggregated, and cross referenced electronically” without being connected to *any* PII of NCE licensee board members, and certainly without corresponding to highly sensitive information like a partial Social Security number. By failing to articulate any reason for requiring sensitive personally identifiable information from the governing board members of NCE licensees for the statutory purpose of promoting diversity of ownership, the Commission’s decision to treat NCE licensees in the same manner as commercial licensees is arbitrary.

Second, there is no factual basis in the record for concluding that the Commission needs to collect sensitive PII in order to track and aggregate multiple public university NCE licensees to any unique individual. The methods by which the board members of public university NCE licensees are selected—through elections or political appointment⁴⁷—make it highly unlikely for there to be anything but a *de minimis* amount of cross-involvement.⁴⁸ This means that even if the question of whether the same individual serves on the boards of multiple public university NCE licensees were relevant for the Commission’s diversity-promoting purposes, and it is not, the Commission is unlikely to encounter this situation. An attempt to solve for such a marginal

⁴⁷ See *supra* note 12 (providing examples of state laws on the selection of board members).

⁴⁸ See U of M 11/5/15 Ex Parte at 2; Joint Comments of Public Broadcast Licensees at 7 n.6, MB Docket No. 07-294 (filed Mar. 30, 2015) (noting that the existence of cross-ownership by the same individual among NCE licensees is rare).

(at best) case does not justify the burdens imposed on these NCE licensees or their governing board members.

B. The 323 and 323-E Order Mistakenly Concluded that Burdens on NCE Licensees Are *De Minimis*.

The Commission should grant the reconsideration petitions because there is no basis in the record to support the 323 and 323-E Order's conclusion that requiring the submission of board members' sensitive PII imposes only a minimal burden on NCE licensees. In reaching this conclusion, the Commission ignored unrefuted evidence in the record that NCE licensees would face more difficulty in recruiting and retaining volunteer board members if these individuals would have to provide sensitive personally identifiable information to the Commission.⁴⁹ Instead the Commission erroneously assumed that the burdens of requiring board members to submit sensitive PII were the same for commercial licensees as for NCE licensees generally, and public university licensees specifically.⁵⁰

First, as the record reflects, NCE licensees are governed in most cases by volunteer board members, who are not compensated for the services they provide to the licensees.⁵¹ The additional risk presented by turning over sensitive PII is more likely to deter volunteer board members than broadcasting industry investors, who are financially rewarded for the risks they

⁴⁹ See 323 and 323-E Order, 31 FCC Rcd. at 517 (noting that the concerns are not "idle speculation," but "based on the reaction of volunteers to [the] Commission's actions in this proceeding to date") (Pai Dissenting Statement).

⁵⁰ See *id.* ¶ 42 (stating that "[n]o commercial entity has contested" the RUFRN requirement, and that "the quality of the information" requested from commercial licensees and NCE licensees "is similar or exactly the same").

⁵¹ See, e.g., NCE Licensees Petition at 5-6; Public Broadcasting Parties Petition at 4-6, 9; University of Utah Reply Comments at 3-4.

assume.⁵² The uncompensated nature of this risk is even clearer for board members of public university licensees who serve purely in an *ex officio* capacity and thus did not even volunteer specifically for their “role” in a regulated industry.⁵³

Second, the *323 and 323-E Order* ignored the distinct and heightened risks for identity theft and hacking that apply to government officials and to governmental databases.⁵⁴ The Commission did not dispute that government officials are potential targets because of their positions, but instead asserted that “public officials or prominent individuals” may also be governing board members of commercial licensees and would otherwise be exposed to the same risks.⁵⁵ Why the Commission thinks public officials are likely to sit on the boards of commercial broadcasters is, to put it gently, unclear. Regardless, by requiring sensitive PII from public university licensees, the Commission is guaranteeing that high-ranking state government officials will be included in the database—even if they otherwise have nothing whatsoever to do with broadcasting. Moreover, as the petitioners noted, the record does not support dismissing these security concerns, as the *323 and 323-E Order* did, because the Commission has not provided any assurances that its systems are less vulnerable than other federal government systems that have been compromised.⁵⁶

⁵² See University of Utah Reply Comments at 7. The *323 and 323-E Order* also stated, without any hint of irony, that the new reporting requirement is not burdensome because NCE licensees and their board members have multiple “options” of complying. See *323 and 323-E Order* ¶ 55. However, the alternative “options” are: (1) providing one’s *full* Social Security number in lieu of a partial number; and (2) accepting that the Commission may pursue an enforcement action against board members that refuse to provide the required sensitive personally identifiable information. See *id.*

⁵³ See *supra* note 12 (providing examples of state government officials serving *ex officio*).

⁵⁴ See U of M 12/7/15 Ex Parte at 1.


⁵⁵ See *323 and 323-E Order* ¶ 42.

⁵⁶ See SUNY Petition at 5.

III. RELIEF REQUESTED

For the reasons stated above, U of M respectfully asks the Commission to vacate the *Order on Reconsideration*, and simultaneously to grant the petitions for reconsideration and order that: (1) the requirement that licensees obtain and submit RUFRNs for their governing board members as set forth in the *323 and 323-E Order* does not apply to NCE licensees, or, alternatively, (2) that this requirement does not apply to those NCE licensees that are state or local governmental entities.

Respectfully submitted,

A handwritten signature in black ink that reads "SCOTT HARRIS". The signature is stylized with a large, bold "S" and the name in all caps.

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January 31, 2017

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/s/ H. Henry Shi
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